

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BILLY DRIVER, JR.,

Plaintiff,

v.

CHAVEZ,

Defendant.

No. 2:22-cv-1447-DJC-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On November 6, 2023, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within the time specified therein. Timely objections to the findings and recommendations have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis, except as explained below.

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1 Plaintiff objects to dismissal, stating that he has already paid the filing fees for  
2 this action. Attached to Plaintiff's objections is a copy of his inmate trust account  
3 statement indicating that filing fees for this docket were debited from Plaintiff's  
4 account June 22, 2023, and forward to the Court. Due to a docketing error, the  
5 docket did not reflect this payment, which according to the Court's records was  
6 received and credited on July 11, 2023. The docket will be updated to reflect  
7 Plaintiff's payment. Given that the fee status for this matter has been resolved, the  
8 Court does not adopt the Magistrate Judge's recommendation that the case be  
9 dismissed without prejudice to refile upon prepayment of fees. The fee status of this  
10 case is deemed resolved.

11 Accordingly, IT IS HEREBY ORDERED as follows:

12 1. The findings and recommendations filed November 6, 2023, ECF No. 51,  
13 are adopted in part.

14 2. Defendant's unopposed motion to revoke Plaintiff's in forma pauperis  
15 status, ECF No. 39, is GRANTED.

16 3. The matter is referred back to the assigned Magistrate Judge for further  
17 proceedings.

18  
19 IT IS SO ORDERED.

20 Dated: **March 27, 2024**

  
Hon. Daniel J. Calabretta  
UNITED STATES DISTRICT JUDGE